

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

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| JOHN DEATON and O & J, LLC | : | |
| | : | |
| Plaintiffs, | : | |
| | : | |
| v. | : | C.A. No. 2017 - |
| | : | |
| LIBERTY MUTUAL GROUP, INC. | : | REMOVED FROM SUPERIOR COURT, |
| d/b/a/ LIBERTY MUTUAL INSURANCE | : | STATE OF RHODE ISLAND, |
| | : | PROVIDENCE/BRISTOL COUNTY |
| Defendant. | : | |
| _____ | : | |

NOTICE OF REMOVAL

Defendant Liberty Mutual Group, Inc., d/b/a Liberty Mutual Insurance (hereinafter “Defendant”) hereby file this Notice of Removal pursuant to 28 U.S.C. §§1441 and 1446 of the action now pending in the Rhode Island Superior Court, Providence/Bristol County, Case No. PC-2017-1726 (the “Action”), to the United States District Court for the District of Rhode Island. Defendant, appearing for the purpose of removal only and for no other purpose, and reserving all defenses and rights available to it, state as follows in support of this Notice of Removal.

Preliminary Matters

1. On or about April 17, 2017, Plaintiffs John Deaton and O & J, LLC (“Plaintiffs”) filed the Action. The complaint purports to assert numerous claims. A true and correct copy of the Summons and Complaint are attached hereto as Exhibit 1.
2. On April 26, 2017, Defendant accepted service of the summons and Complaint in connection with the Action.

3. Thirty days since service and receipt has not yet expired; this Notice of Removal is therefore timely filed within the 30-day time period set forth in 28 U.S.C. § 1446(b).

Nature of the Action

4. Plaintiffs seek monetary damages in accordance with an insurance contract entered into by the parties. Plaintiffs allege that Defendant breached the insurance contract in bad faith. *See Exhibit 1.*

5. Plaintiffs assert claims of breach of contract, negligent misrepresentation, specific performance, unjust enrichment, and bad faith against the Defendant based on various theories.

Grounds for Removal

6. This Action is removable pursuant to 28 U.S.C. § 1332(a)(1), which provides that “[t]he district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interests and costs, and is between...citizens of different states.”

6. Plaintiff John Deaton is a person who resides in and is a citizen of Rhode Island, and Plaintiff O & J, LLC is a limited liability corporation formed and registered under the laws of Rhode Island with its principal place of business in Rhode Island. Defendant is an insurance company that is registered in Rhode Island as a foreign corporation, with its global headquarters registered in Massachusetts. Therefore, the requirement that the matter in controversy is between citizens of different states is established in this Action.

7. The Complaint raises numerous claims, and claims preliminary damages of \$68,345.76 in dispute for loss. The claim for Bad Faith alleges that the “Defendant’s failures were willful,

intentional or arbitrary and capricious so that the Plaintiffs are entitled to an award of penalties, attorney's fees, and costs." The claim for punitive damages, if substantiated, would realistically meet or exceed the \$6,654.24 required to meet the jurisdictional amount.

8. Rhode Island state practice "permits recovery of damages in excess of the amount permitted" pursuant to 28 U.S.C. § 1446(c)(2)(A)(ii). Specifically, R.I.G.L. § 9-1-33 provides that, "[i]n any action brought pursuant to this section, an insured may also make claim for compensatory damages, punitive damages, and reasonable attorney fees."

9. Pursuant to 28 U.S.C. § 1446(d), Defendants promptly will file a copy of this notice of Removal with the Clerk of the Rhode Island Superior Court, Providence/Bristol County, and will serve a copy of the same on Plaintiffs.

10. By removing this matter, Defendant does not waive or intend to waive any defenses that may be available to it.

WHEREFORE, Defendants respectfully remove the Action now pending in the Rhode Island Superior Court, Providence/Bristol County, C.A. No. PC-2017-1726, to the United States District Court for the District of Rhode Island.

Defendant,
Liberty Mutual Group, Inc.,
d/b/a Liberty Mutual Insurance
By its Attorney,

Dated: 05/16/2017

/s/ David A. Brosnihan
David A. Brosnihan (Bar #7712)
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CERTIFICATE OF SERVICE

I hereby certify that on May 16, 2017, a copy of the foregoing was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing.

John Deaton, Esq.
Mark T. Boivin, Esq.
The Deaton Law Firm
450 North Broadway
East Providence, RI 02914

Dated: 05/16/2017

BY: /s/ David A. Brosnihan